IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

MFA.No. 71 of 2003(B)

AGAINST THE AWARD IN OP(MV).653/1999 of ADDL.MOTOR ACCIDENT CLAIMS TRIBUNAL, ALAPPUZHA DT.5.4.2002.

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APPELLANT: PETITIONER

BENNY FRANCIS, S/O.A.FRANCIS,
OLANGATTIL HOUSE, UDAYAMPEROOR P.O.,
MANAKUNNAM VILLAGE, NEAR KANDANADU JUNCTION,
NOW RESIDING AT PUNNACHALIL HOUSE, (ROSE VILLA),
CMC-23, CHERTHALA P.O., CHERTHALA TALUK,
ALAPPUZHA.

BY ADV. SRI.J.OM PRAKASH

RESPONDENTS: RESPONDENTS
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1. **T.MOHAMMED MUSTHAFA, S/O.T.HAMZA,**
   THUMPAKUZHIYIL HOUSE, KARAKURSI VILLAGE,
   VAYAZHAMPURAM DESOM, NEAR A.V.M.P. SCHOOL,
   MANNARKADU (TALUK) PALAKKAD DISTRICT.

2. **SHAMSUDHEEN, S/O.KUNJALI,**
   PARAPARAMBIL HOUSE, THALAKUDATHOOR DESOM,
   CHERIYAMANDAM VILLAGE, THIROOR TALUK,
   MALAPPURAM.

3. **E.MOHAMMED, S/O.MAMMED,**
   MANNARACKAL HOUSE, ATHANICKAL VALLUVAMBRAM P.O.
   MALAPPURAM.

4. **UNITED INDIA INSURANCE CO.LTD.,**
   MAVOOR ROAD, BRANCH, KOZHIKODE, REP. BY ITS
   MANAGER, MAVOOR ROAD BRANCH.

BY ADV. SRI.M.A.GEORGE - R4

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 01/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.No.71 OF 2003

Dated 1st June, 2007

JUDGMENT

Koshy,J.

Appellant who was a plus two student met with an accident on 18.1.1999. He claimed a compensation of Rs.1,70,000/=. According to him, the accident occurred due to the negligence of the driver of the vehicle insured by the fourth respondent insurance company. The Tribunal, even though found negligence on the part of the driver of the vehicle insured by the fourth respondent insurance company, directed to pay only Rs.7,000/= as compensation. No permanent disability certificate was produced. Ext.A4 is the copy of the wound certificate which shows that the appellant had abrasion with swelling right eye lid, swelling occipital region 5 x 5 cm, abrasion over both elbows and dorsum of the left hand. Appellant was treated conservatively as seen from Ext.A6. Ext.A7 is the bills issued from the hospital. The bills show that he has spent Rs.4,470/=. The main contention raised by the appellant was that even though no permanent disability certificate was produced, he developed watering of eyes, treated in an Ayurveda hospital and spent about Rs.26,000/=. Ext.A12 certificate was produced to prove the same. We see no reason to accept the same in the absence of

proof. However, considering the injuries and treatment, we are of the opinion that for pain and suffering and consequences of the injuries, an additional amount of Rs.3,000/= ought to have been awarded. Thus, the appellant is entitled to an additional amount of Rs.3,000/=. The above amount of Rs.3,000/=, over and above the decreed amount, should be deposited by the third respondent insurance company with 9% interest from the date of application till its deposit. On deposit of the amount, the appellant is entitled to withdraw the same.

The appeal is partly allowed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

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